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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/698,153

10/29/2003

Andrew James Retsema

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01/04/2007

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

STINSON, FRANKIE L

ART UNIT

PAPER NUMBER

1746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/698,153

Applicant(s)

RETSEMA, ANDREW JAMES

Examiner

FRANKIE L. STINSON

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Becker (U. S. Pat. No. 5,549,760 in conjunction with Nelson U. S. Pat. No. 4,985,106, as incorporated therein col. 1, line 21) or Herreman et al. (U. S. Pat. No. 5,965,851) in view of either Jordan (U. S. Pat. App. Pub. 2005/0076938) or Marks et al. (U. S. Pat. No. 5,549,760) or Herreman et al. (U. S. Pat. No. 5,965,851).

Re claims 1, 16 and 25, Becker and Jordan are each cited disclosing a dishwasher comprising: a wash tub (14 in Becker/Nelson and 17 in Jordan) comprising a rear wall, top wall, bottom wall, and side walls, with the walls collectively forming an open-faced wash chamber; a support frame having a front-facing opening intermediate a support frame upper portion (30 in Becker/Nelson and 30, 31, 32 in Jordan) and a support frame lower portion (unnumbered in Becker/Nelson and 28 in Jordan), and the wash tub is mounted to the support frame such that the open-faced wash chamber is in communication with the front-facing opening, and a motor cavity (unnumbered in Becker/Nelson and as at 28 Jordan) with a front-facing motor cavity opening is defined intermediate the wash tub bottom wall and the support frame lower portion element and the arrangement of providing a sound attenuator for a dishwasher with a sound barrier

(48 in Becker/Nelson and 36 in Herreman) and sound a absorber (4a in Becker/Nelson and 34, 40 in Herreman) that differs from the claims only in the recitation of the sound attenuator substantially closing the motor cavity opening to attenuate the sound emanating from the motor cavity through the motor cavity opening and the access panel covering the motor panel. The patents to Marks and Jordan are each cited disclosing the sound attenuator substantially closing the motor cavity opening to attenuate the sound emanating from the motor cavity through the motor cavity opening and an access panel covering the motor cavity. It therefore would have been obvious to one having ordinary skill in the art to modify the arrangement of either Becker/Nelson or Herreman to include sound attenuation at the motor cavity and an access panel covering the panel as taught by either Jordan or Marks, since this is consider to be a mere rearrangement of parts (MPEP 2144.04 REVERSAL, DUPLICATION OR REARRANGEMENT OF PARTS), an obvious extension of the teachings of Becker/Nelson and Herreman, and since Herreman discloses that the sound attenuator "can be provided on the other side of the dishwasher and other faces" (col. 3, lines 11-12). It is therefor, the examiner's opinion that to employ a sound attenuator at other locations, particularly the motor cavity where much of the noise is generated, would have been obviously apparent to one of ordinary skill in the art for the reason as noted immediately above. It is also old and well known to provide an access panel as claimed since typically the dishwasher is located in the kitchen confined by cabinet structure to either side thereof with access for maintenance/repair being expedited through the front. Re claims 2, 4, 5, 6 and 7, no patentable distinction is deemed to exist between the material and shapes as claimed

and the material and shape as taught by Jordan, Herreman or Becker/Nelson. Re claim 3, Jordan discloses the barrier extending across the cavity as claimed (see paragraph 0027). Re claim 8, Jordan discloses the sound attenuator as claimed (paragraph 0027, line 6). Re claim 9, 18, 19, Becker/Nelson discloses the insulation curtain (fig. 7). To have the same overlap, is deemed to be an obvious extension of the teachings of Jordan. Re claims 10-15, 17, 20-24 no patentable is deemed to exist between the hinge and barrier, attachment means and access panel as claimed and the hinge and barrier, attachment means (VELCRO) and panel (kick-plate) as disclosed by Jordan.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Kruck et al., note the sound attenuating means.

4. Applicant's arguments filed November 22, 2006 have been fully considered but they are not persuasive. In regard to the remarks that the examiner has not pointed to any suggestion that teaches to combined the disclosures, please note the disclosure as taught by Herreman as noted above. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fls

A handwritten signature in black ink, appearing to read 'Frankie L. Stinson', with a long horizontal flourish extending to the right.

FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1746